

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN DOE, *an individual*,

Plaintiff,

vs.

DAVID H. BAUM, et. al.,

Defendants.

Case No. 16-cv-13174
Hon. David M. Lawson
Mag. Stephanie Dawkins
Davis

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**PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION TO FILE SUPPLEMENT REPLY BRIEF IN
SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendants' Response elucidates exactly why this Court must grant Plaintiff's Motion for Partial Summary Judgment [Dkt. 138]. The University is heavily invested in by-passing the courts and continuing, policy-wise, down any path they choose, whenever they choose, as they explain at Page ID 5061-62:

The University stands ready to adjudicate the charge using procedures that comport with due process, including the standards announced in *Doe v. Baum*, 903 F.3d 575 (6th Cir. 2018). At the present time, that adjudication would be under the Interim Policy. If and when the University's procedures change, the updated procedures will also afford due process consistent with the Sixth Circuit's decision. Plaintiff has no basis to speculate otherwise. The University has represented in public statements and court filings that, in light of *Baum*, it will provide hearings with cross-examination for allegations of sexual misconduct.

On July 12, 2019, University spokesman Rick Fitzgerald confirmed the University's intransigence as to the courts publicly:

"Fitzgerald said the university's right to control its own policies is worth fighting for. 'We must retain the authority over our policies to do that in the best way we know how and we're willing to fight in court to maintain that authority.'..." Ex. B, Gus Burns, UM sexual misconduct policy lawsuit has cost \$648,380 in legal fees so far, MLive (July 12, 2019), <https://www.mlive.com/news/2019/07/um-sexual-misconduct-policy-lawsuit-has-cost-648380-in-legal-fees-so-far.html>.

The fact is that this Court must ensure that the Policy applied to Plaintiff, which sets forth the process he will receive, comports with the Sixth Circuit required prior any further adjudication against him (if any). Defendants refuse to be transparent; they failed to explain to the Court that the Policy they are urging it

to rely on for due process protections is about to be replaced and they have yet to share the contents of the proposed new policy.

Dated: July 29, 2019

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2019, I electronically filed the foregoing document and Exhibit with the Clerk of the Court using the ECF system, which will send notification of such filing and service of said documents to all parties through their counsel of record.

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